

Center for Zero Waste Design
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Testimony on Intro. 1574 (Complete Version)
Committee on Sanitation and Solid Waste Management
New York City Council
Hon. Antonio Reynoso, Chair
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There has never been a rational system for collecting commercial waste in New York City, or any plan for its overall management. Private carting, as practiced in the past and at present, is an unintended consequence of failures to examine the big picture to see how all the moving parts fit together. We are therefore pleased to offer our support for Intro. 1574, which for the first time in the City's history offers a framework for developing a thoughtfully designed integrated system.

Historical Background

In 1915, New York stopped picking up waste from commercial buildings. Not because it had intended to. But because the Sanitation commissioner's attempt to begin charging businesses for collecting their waste backfired. His disposal contractor, who dumped the stuff in the ocean, would no longer let him put refuse from non-residential buildings into his barges unless he got some of this new revenue himself. The commissioner's response: screw that. Overnight, Sanitation stopped picking up business waste and private carters, who until then had only removed waste from large hotels and factories and salvaged food scraps and paper and bottles and cans, became the only collection option for tens of thousands of new customers.¹

In 1956, the private carting world was jolted again by the unintentional consequences of another attempt to save money. 50,000 companies, mostly on the ground floor of residential buildings, were still getting free collection. It wasn't fair to the companies in commercial-only buildings that didn't. And the City needed the revenue it could recover by charging for collection. The City's brain trust—the city administrator, the budget director, the commissioner of investigations—urged Sanitation to do that. And warned the mayor not to allow these businesses to fall into the hands of the carting industry, which in the past three years had undergone a change in management. The boss of Murder Inc. and his crew had moved into the Teamsters' local and the trade waste associations. Their arrival immediately led to tighter monopoly control, established through threats and acts of violence, and higher prices. Investigations by City and State authorities soon followed. Nonetheless—for whatever reason—Mayor Wagner chose to

¹ E.g., *Brooklyn Daily Eagle*, "City Won't Dispose of Private Rubbish;" *New York Times*, "Stop Free Removal of Business Waste;" *Standard Union*, "To Stop Taking Up Trade Waste," 8-1-1915.

hand these 50,000 new customers to the carting industry.² The consequences lingered to the end of the century, when remedial control measures were finally introduced.

In 1982, another pricing change by a sanitation commissioner and another set of unintended private-carting consequences. Trying to make the fee for using his disposal facilities more accurately reflect the depletion cost associated with using the City's finite remaining landfill capacity, he asked the Board of Estimate to double the tip fee at the marine transfer stations that barged waste to the City's last two landfills.³ If you were wondering, that's why dozens of private transfer stations suddenly popped up in just a few places.

Since our history suggests that changes to this complex network occur only a few times a century, we should take full advantage of the current opportunity to finally address some of the critical problems in the present system and finally begin to rectify some of the unintended consequences of past well-intentioned but muddled interventions.

Using an Integrated System Design to Address Critical Problems

The design for a rational commercial-waste system should do much more than reduce unnecessary truck miles and improve safety and environmental-performance standards. As the mob bosses well-understood, assuming long-term control over large customer routes offers powerful advantages. These are some of the problems these advantages could solve.

The transfer station problem.

To remedy the problems in neighborhoods where private facilities are clustered, the City's network of marine stations was designed to accommodate both residential and commercial waste. But private carters won't abandon their own facilities and use the City's without some significant inducement or requirement. Franchise awards, in which specific waste sheds are linked to specific first-dump sites are the most efficient way to accomplish this end while also minimizing truck miles. This logic should be extended to garages and processing facilities, which should also be linked to specific zones. When optimally located sites are not available, the City should take all reasonable steps to facilitate such private developments or to offer public sites for this purpose. And where appropriate, these sites should allow shared access between different carters or between carters and DSNY.

Satisfying demand for processing capacity.

² E.g., *Daily News*, "Says Refuse is Drain on City," 7-26-1954; "City Probes Private-Trash Gouge," 6-1-1955; "Monopoly Cry in Removal of Rubbish Sifted," 8-7-1955; "Urge City End Free Hauling of Private Refuse," 2-8-1956; "Approve Garbage Move," 2-10-1956; Bob Greene, "Murder of Anastasia Speeds Carting Probe," *Newsday*, 10-31-1957.

³ Paul L. Montgomery, "Angry Carting Concerns to Act on 'Unfair' Rates," *New York Times*, 2-13-1982.

Supply-side guarantees at predictable prices (which long-term franchises offer) are the necessary and sufficient pre-requisite for facility financing. There is a huge gap between the supply of local processing and disposal capacity and the latent demand. Which is why the most of our waste is sent to distant landfills at great environmental, social, and economic cost. If we don't develop this capacity we have zero chance of delivering zero waste to landfills by 2030—or any other wishful date. Financing and developing anaerobic digestion, waste-to-energy, and other forms of materials and energy-recovering facilities either within the city or nearby, should also be a requirement of franchise awards. Again, the City should assist in this effort to the maximum extent possible, including through facilitating access to sites and through access to institutional financing structures.

Collection infrastructure and operations.

Piling bags on the street to be picked at by rats, picked up by humans, and packed into trucks idling in front of every building is a barbaric way to collect waste. Where better systems are or could be made available, their development and use should also be a franchise condition. This will require installation of collection infrastructure and equipment, as well as operational coordination between adjacent buildings and between generators and collectors, and between the agencies responsible for different aspects of our public space.

Incentivizing waste diversion.

Intro. 1574 has language to incentivize waste diversion on the generator side, by requiring a commitment to provide lower collection rates for organics and recyclables. But this creates a *disincentive* for carters to encourage or facilitate diversion by other means, since their greatest revenues come from non-diverted waste. One option to address this problem would be to create a department-administered escrow fund into which a specified portion of carter revenues would go as “retainage”. The non-retainage portion of revenues would be established at a level that covers all franchisee operating costs but not the full anticipated profit. This escrow fund could then be divided among all franchisees, on a weighted basis reflecting their respective contributions to the fund, but also reflecting the relative degree of diversion that they can document over the established withholding period. Franchisees with the highest diversion percentages would receive the highest proportion of their escrow fund payments, so that franchisees who divert less-than-average amounts may receive less retainage than they paid while those who achieved above-average diversion may receive a bonus above their retainage payments.

Reducing truck trips through incentives and mandates.

Current collection-truck miles traveled are the product not only of the number of carting companies and trucks serving any given block but of the number of pick-ups of a given waste fraction, at different times of the day, and different days of the week, per building. Franchise agreements can require that carters do not pick up the same fraction from the same business or the same building multiple times a day unless they can show that such multiple trips do not

increase truck miles traveled to collect the same volume of that material from the same generator or set of generator on a given route or routes without multiple collections per day. The agreements could also incentivize generators to accept fewer collections per week (which could be made possible with the use of compaction or densification equipment, or by providing more storage space) by reducing their collection costs in proportion to the collection savings realized by the carter due to fewer truck trips.

System Building Blocks Needed for the Realization of These Problem-Solving Objectives

Context-Sensitive Zone Boundaries.

Zone boundaries should be delineated in a way that respects critical institutional and physical infrastructure as well as geographic and demographic conditions relevant to collection and transport logistics.

Certain local conditions could allow or facilitate superior, sustainable collection operations. For example, viaducts such as the #7 line in Queens, or the High Line in Manhattan, which stand ready and waiting for a pneumatic waste-collection tube to be strapped to them, should not be split between multiple zones. And the boundaries of Business Improvement Districts, which serve as ready-made institutional armatures for litter-reduction and waste-collection services, should also be respected in defining zones.

Conversely, since minimizing truck miles is one of our prime objectives, there are existing jurisdictional lines that should *not* be considered inviolable. Treating Community Board boundaries as sacrosanct barriers that can't be breached by collection trucks, for example, could easily lead to an unnecessary increase in vehicle miles if loads have to be driven farther to reach a dump site at the opposite end of one district than they would if they slipped around the corner to a nearby site in an adjacent one.

Similarly, just as using Community Districts to arbitrarily cookie-cut franchise zones could lead to extra miles travelled, failing to consider the geographic chokepoints—the bridges, tunnels, and other flow-constraining features that afflict our archipelagic city—could needlessly increase the congestion impacts associated with the predictable movements of collection trucks from their defined points of origin (garages), to collection routes and destinations (dump sites).

Facility Siting; Open Access to Facilities

The number of sites that are within or adjacent to the city for the range of waste-management facilities needed for our overall public and commercial needs—garages, transfer sites, processing sites—is severely limited. This is another problem that should be addressed through the franchise plan since there is no other way—again, short of separate legislation—through which more-efficient use of existing and potential facilities can be achieved. If use of a City-owned or -controlled facility (garage or transfer or processing site) that has potentially available capacity

would minimize transport distances from a zone, the City should offer use of that site to the franchisee of any such nearby zone, and its use should be required of any such franchisees. Likewise, franchisees using facilities with potentially available excess capacity that would minimize transport distances for a franchisee in another zone should be required to share access to such facilities and the other franchisees should be required to use such facilities. And in the event that there are sites controlled by the City that could be developed for such use, that would reduce transport distances relative to alternative sites, and whose use for this purpose would produce greater public benefits than their existing use, these sites should be made available for use by the franchisee(s), who in turn should be required to use them. Or if the proposed development site is controlled by a franchisee, the City shall make every reasonable effort to facilitate any regulatory processes required for its development.

Collection Operations

Reducing truck miles traveled by multiple competing carting companies is important. But we will need to do much more than that to address all the climate-change, congestion, economic, and quality-of-life challenges posed by New York City's current waste management operations. We should also get away from the door-to-door collection of plastic bags of trash and recyclables on the street and move toward the kind of containerized, semi-automated, aggregated collection that is practiced in many other cities. Among the possibilities are aggregated collection, on the multi-building or block level, with compactor-containers for building-staff use or drop-off kiosks for residents and pedestrians; submerged containers; and collection via pneumatic tubes. But these best-case practices are unlikely to happen unless their use is envisioned in this bill and the development and use of such systems in appropriate situations is required by franchise agreements.

To the maximum practicable extent, the City should encourage and facilitate such superior forms of sustainable collection by working, across agencies, with BIDs and local businesses and residents to use public spaces such as parking lanes and under-el locations for aggregated, containerized collections.

Pricing

Reducing truck trips and miles can offer significant public benefits in the form of improved environmental, safety, and quality-of-life conditions. But these reductions also offer significant benefits to waste haulers, given the savings in labor, operating, and capital costs that they entail. And as previously noted, exclusive franchise zones also offer significant long-term economic value, due to the assured long-term contractual relationships at predictable prices with a large body of customers without the need for ongoing marketing and competitive procurements.

There should also be long-term efficiencies and savings accruing to private carters—as well as substantial benefits to the public—from the development of local processing and disposal capacity that is developed on private and/or public sites, with capital financing leveraged through

the supply-side commitments produced by franchise awards and facilitated through a City role in bond issuance. Such facilities should gradually reduce the need for expensive long-term transport and landfill disposal.

These win-win efficiency-savings allow the possibility of increased service and performance requirements on the part of carters without increased fees to generators. An awareness of this structural condition should make it possible to establish clear expectations with regard to how pricing of private hauling services is set. That is, despite the improved performance standards the new system will establish, there should be a clear and close relationship between future and current costs.

This understanding—that there should not be marked differences in before- and after- pricing—should condition the price competition between carters in bidding for franchise awards. That is, the role of price-competition alone should not be paramount. Rather, the open franchise-award process should focus on negotiated terms. And there should be less incentive for firms to engage in “race to the bottom” price competition that could constrain protections for workers and create unnecessarily sharp differences in the fees charged similar types of generators in different areas of the city.

Maximizing the Number of Qualified, High-Performance Carters

There are good arguments for not creating a situation in which the current eco-system of local carting firms is suddenly reduced in size to just a few very large firms. This need not be an automatic result of this legislation. There are a variety of ways in which the maintenance of smaller firms could be encouraged. One would be by designing geographically rational, demographically compatible zones of varying sizes, so that the ability of firms of different sizes to bid for franchise awards could be maximized.

Another would be to develop procurement terms that favored the use of multiple qualified subcontractors, for different subsections of zones, or for different materials, or for specific forms of superior collection (such as submerged containers or pneumatic networks) which involve specialized equipment and operations.

With thoughtful design, it could be possible to produce a system in which the future market share for existing firms may not differ markedly from their current market share, while each firm benefited from the efficiencies of rational routes, assured contractual relationships, access to superior collection, processing, and disposal technology, and shorter origin-to-destination transport distances.

Penalties/Liquidated Damages

Customers need to be assured that their carter will fully meet their contractual requirements and that there are quick, automatic remedies to compensate for specified service failures. The

department should provide one-call or -e-mail dispute-resolution services so that the customer is promptly compensated at a defined rate for each documented failure. These fines or penalties should be paid by the department to the generator within a specified timeframe, with the money recovered by the City from the carter, either through the escrow fund previously mentioned or another means.

“Plan B”

Though there are clear benefits to be achieved by individual businesses through an exclusive-zone system—including

- the avoidance of the need to negotiate an individual price with the carter that may be less-favorable than that received by other customers due to the business’s size or other characteristics, since the franchise award process will have established a fair rate under competitively reasonable terms for that part of the city;
- the provision of an administrative and dispute-management system that will ensure prompt compensation at specified rates; and
- the marketing and real-estate advantages due to fewer truck trips and fewer bags on the street—

and though there are clear public-interest arguments in favor of treating waste management as a public utility, which would preclude giving individual generators the right to choose their own provider (just as businesses are often not allowed to choose their own water or electricity provider, and New York householders generally do not have the option of choosing their waste collector), commercial generators may feel uncomfortable about having an assigned carter rather than having the ability to choose any carter at any time.

To address this concern, and to deal with cases where the complaint-management process has not provided satisfactory results from the customer’s perspective, at a customer’s request DSNY should collect a given customer’s waste at the cost established for that zone.